

THE SOUTHERN BANNER.

EDITED BY GEORGE A. WILSON.

"INDUCTI DISCANT ET MEMINISSE PERITI AMANT."

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CONGRESSIONAL.

DEBATE IN THE SENATE.

SPEECH OF MR. CLAY.

THE SUBJECT OF ABOLITION PETITIONS.

Thursday, Feb. 7, 1839.

MR. CLAY, of Kentucky, rose to present a petition to the Senate and House of Representatives of the United States, and said, I have received Mr. [Name], a petition to the Senate and House of Representatives of the United States, and I wish to present to the Senate. It is a petition from the inhabitants of the District of Columbia, and chiefly of the City of Washington. Among them I name the name of the highly esteemed [Name] of the city, and other respectable names, some of which are personally known to me. They express their regret that the subject of the abolition of slavery within the District of Columbia continues to be pressed upon the consideration of Congress by inconsiderate and misguided individuals in other parts of the United States, and that they do not desire the abolition of slavery within the District, even if they possess the very unquestionable right of abolishing it, without the consent of the people whose interests would be immediately and directly affected by the measure. It is a question solely between the people of the District and their only constitutional Legislature, purely municipal, and which no exterior influence, or interference, justly interferes; that, if at any future time the people of this District should feel the abolition of slavery within it, they will be able to make it known, and it will be time enough to take the matter into consideration; that they do not on any occasion, present themselves to Congress as slave-holders—many of them are not—some of them are conscientiously opposed to slavery—but they appear before you justly respecting the rights of those whom that description of property, and who they entertain a deep conviction that they have no right to interfere with it, and whose influence on the peace and tranquility of the community, and upon the happiness of those who are subject to their jurisdiction, they finally protest against the unauthorized intervention of Congress, and complain, as against any legislation on the part of Congress in compliance therewith. But, as I wish these respectable petitioners to be themselves heard, I read accordingly, and Mr. Clay proceeded to read the petition, and Mr. Clay said, I am informed by the committee that they intend to offer this petition, and I think it expresses the almost unanimous sentiment of the people of the District of Columbia.

The performance of this service affords to Mr. C., a legitimate opportunity, of speaking with the permission of the Senate, and now to avail myself, to say something, only on the particular objects of the petition, and upon the great and interesting subject which it is intimately associated. It is well known to the Senate, said Mr. Clay, that I have thought that the most judicious course with abolition petitions has been that of late pursued by Congress. I am believed that it would have been wisest to have received and referred them, without action, and to have reported against their admission, and to have expressed our disapprobation of the petitioners, and to have called the attention of the public to the good sense of the whole community. It has been supposed, however, by a majority of Congress that it was expedient either not to receive the petition at all, or, if formally received, not to do anything upon them. There is no substantial difference between these opposite opinions, since both look to an absolute rejection of the prayer of the petitioners. But there is a great difference in form of the proceeding; and, Mr. President, some experience in the conduct of human affairs has taught me to believe that a neglect to observe the proper forms is often attended with more injurious consequences than the infliction of a positive injury. We all know that in private life, a violation of the existing usages and ceremonies of society, cannot take place without serious prejudice. Now, sir, that the abolitionists have a considerable apparent force by blending with a totally different question arising out of an alleged violation of the right of petition, I know full well, and take great pleasure in testifying, that nothing was remoter from the intention of the majority of the Senate, from which I differed, than to violate the right of petition in any case in which, according to its judgment, that right could be constitutionally exercised, or where the object of the petition could be safely or properly granted. Still, it must be owned that the abolitionists have seized hold of the fact that the treatment which their petitions have received in Congress, and made injurious suggestions upon the minds of a large portion of the community. This, I think,

might have been avoided by the course which I should have been glad to have seen pursued.

And I desire now, Mr. President, to advert to some of those topics which I think might have been usefully embodied in a report by a committee of the Senate, and which I am persuaded, would have checked the progress, if it had not altogether arrested the efforts of abolition. I am sensible, sir, that this work would have been accomplished with much greater ability and with much happier effect, under the auspices of a committee, than it can be by me. But anxious as I always am to contribute whatever is in my power, to the harmony, concord and happiness of this great people, I feel myself irresistibly impelled to do what ever is in my power, incompetent as I feel myself to be, to dissuade the public from continuing to agitate a subject fraught with the most direful consequences.

There are three classes of persons opposed, or apparently opposed, to the continued existence of slavery in the United States. The first are those who, from sentiments of philanthropy and humanity, are conscientiously opposed to the existence of slavery, but who are no less opposed, at the same time, to any disturbance of the peace and tranquility of the Union, or the infringement of the powers of the States composing the Confederacy. In this class may be comprehended that peaceful and exemplary society of "Friends" one of whose established maxims is, an abhorrence of war in all its forms, and the cultivation of peace and goodwill amongst mankind. The next class consists of apparent abolitionists—that is, those who, having been persuaded that the right of petition has been violated by Congress, co-operate with the abolitionists for the sole purpose of asserting and vindicating that right. And the third class are the real ultra-abolitionists, who are resolved to persevere in the pursuit of their object at all hazards, and without regard to any consequences, however calamitous they may be. With them the rights of property are nothing; the deficiency of the powers of the General Government is nothing; the acknowledged and incontestable powers of the States are nothing; civil war, a dissolution of the Union, and the overthrow of a government in which are concentrated the fondest hopes of the civilized world, are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences. With this class, the immediate abolition of slavery in the District of Columbia, and in the Territory of Florida, the prohibition of the removal of slaves from State to State, and the refusal to admit any new State, comprising within its limits the institution of domestic slavery, are but so many means conducing to the accomplishment of the ultimate but perilous end at which they avowedly and boldly aim; are but so many short stages in the long and bloody road to the distant goal at which they would finally arrive.

Their purpose is abolition, universal abolition, peaceably if it can, forcibly if it must. Their object is no longer concealed by the thinnest veil; it is avowed and proclaimed. Utterly destitute of constitutional or other rightful power, living in totally distinct communities, as alien to the communities in which the subject on which they would operate resides, so far as concerns political power over that subject, as if they lived in Africa or Asia, they nevertheless promulgate to the world their purpose to be to manumit forthwith, and without compensation, and without moral preservation, three millions of negro slaves, under jurisdictions altogether separate from those under which they live. I have said that the immediate abolition of slavery in the District of Columbia and in the Territory of Florida, and the exclusion of new States, were only means towards the attainment of a much more important end. Unfortunately, they are not the only means. Another, and much more lamentable one is that which this class is endeavoring to employ, of arraying a portion against another portion of the Union. With what view, in all their leading points and publications, the alleged horrors of slavery are depicted in the most glowing and exaggerated colors, to excite imaginations and stimulate the rage of the people in the free States against the people in the slave States. The slave-holder is held up and presented as the most atrocious of human beings. Advertisements of fugitive slaves and of slaves to be sold are carefully collected and blazoned forth, to infuse a spirit of detestation and hatred against one entire and the largest section of the Union. And like a notorious agitator upon another theatre, they would hunt down and proscrib the pole of civilized society the inhabitants of that entire section. Allow me, Mr. President, to say, that whilst I recognise in the justly wounded feelings of the Minister of the United States at the Court of St. James much to excuse the notice which he was provoked to take of that agitator, in my humble opinion, he would better have consulted the dignity of his station and of his country in treating him with contemptuous silence. He would exclude us from European society—he who himself can only obtain a contraband admission, into it. If he be no more desirous of our society than we are of his, he may rest assured that a state of eternal non-intercourse will exist between us. Yes sir, I think the American Minister would have best pursued the dictates of true dignity by regarding the language of the malignant ravings of the plunderer of his own country, and the libeller of a foreign and kindred people.

But the means to which I have already adverted are not the only ones which this third class of ultra-abolitionists are employing to effect their ultimate end. They began their operations by professing to employ only

persuasive means in appealing to the humanity, and enlightening the understandings of the slave-holding portion of the Union. If there were some kindness in this avowed motive, it must be acknowledged that there was rather a presumptuous display, also of an assumed superiority in intelligence and knowledge. For some time they continued to make these appeals to our duty and our interest; but impatient with the slow influence of their logic upon our stupid minds, they recently resolved to change their system of logic. To the agency of their powers of persuasion, they now propose to substitute the powers of the ballot box; and he must be blind to what is passing before us, who does not perceive that the inevitable tendency of their proceedings is, if these should be found insufficient, to invoke, finally, the more potent powers of the bayonet.

Mr. President, it is at this alarming stage of the proceedings of ultra-abolitionists that I would seriously invite every considerate man in the country solemnly to pause, and deliberately to reflect, not merely on our existing posture, but upon that dreadful precipice down which they would hurry us. It is because these ultra-abolitionists have ceased to employ the instruments of reason and persuasion, have made their cause political, and have appealed to the ballot box, that I am induced, upon this occasion, to address you.

There have been three epochs in the history of our country at which the spirit of abolition displayed itself. The first was immediately after the formation of the present Federal Government.—When the Constitution was about going into operation, its powers were not well understood by the community at large, and remained to be accurately interpreted and defined. At that period numerous abolition societies were formed, comprising not merely the Society of Friends, but many other good men. Petitions were presented to Congress, praying for the abolition of slavery.—They were received without serious operation, referred, and reported upon by the committee. The report stated that the General Government had no power to abolish slavery as it existed in the several States, and that these States themselves had exclusive jurisdiction over the subject. The report was generally acquiesced in, and satisfaction and tranquillity ensued; the abolition societies thereafter limited their exertions, in respect to the black population, to offices of humanity within the scope of existing laws.

The next period when the subject of slavery, and abolition incidentally, was brought into notice and discussion, was that of the memorable occasion of the admission of the State of Missouri into the Union. It is too recent to make it necessary to do more than merely advert to it, and to say, that it was finally composed one of those compromises characteristic of our institutions, and of which the Constitution itself is the most signal instance.

The third is that in which we now find ourselves. Various causes, Mr. President, have contributed to produce the existing excitement on the subject of abolition. The principal one, perhaps, is the example of British emancipation of the slaves in the islands adjacent to our country.—Such is the similarity in law, in language, in institutions, and in common origin, between Great Britain and to the United States, that no great measure of national policy can be adopted in the one country without producing a considerable degree of influence in the other. Confounding the totally different cases together, of the powers of the British Parliament and those of the Congress of the United States, and the totally different situations of the British West India islands, and the slaves in the sovereign and independent States of this confederacy, superficial men have inferred from undecided British experiment the practicability of the abolition of slavery in the United States. The powers of the British Parliament are unlimited, and are often described to be omnipotent.—The powers of the American Congress, on the contrary, are few, cautiously limited, scrupulously excluding all that are not granted, and above all, carefully and absolutely excluding all power over the existence or continuance of slavery in the several States. The slaves, too, upon which British legislation operated, were not in the bosom of the kingdom, but in remote and feeble colonies having no voice in Parliament. The West India slaveholder was neither represented nor representative in that Parliament. And whilst I most fervently wish complete success to the British experiment of West India emancipation, I confess that I have fearful forebodings of a disastrous temptation off. Whatever it may be, I think it must be admitted that if the British Parliament treated the West India slaves as freemen, it also treated the West India freemen as slaves. If, instead of these slaves being separated by a wide ocean from the parent country, three or four millions of African negro slaves had been dispersed over England, Scotland, Wales and Ireland, and their owners had been members of the British Parliament—a case which would have presented some analogy to that of our own country—does any one believe that it would have been expedient or practicable to have emancipated them, leaving them to remain with all their embittered feelings, in the United Kingdom, boundless as the powers of the British Parliament are?

Other causes have conspired with the British example to produce the existing excitement from abolition. I say it with profound regret, but with no intention to occasion irritation here or elsewhere, that there are persons in both parts of the Union who have sought to mingle abolition with politics, and to array one portion of the Union against the other.—It is the misfortune in free countries, that in high party times, a disposition too often prevails to seize hold of every thing that can strengthen one side or weaken the

other. Prior to the late election of the present President of the United States, he was charged with being an abolitionist, and abolition designs were imputed to many of his supporters. Much as I was opposed to his election, & am to his Administration, I neither shared in making nor believing the truth of the charge. He was scarcely installed in office before the same charge was directed against those who opposed his election.

Mr. President, it is not true, and I rejoice that it is not true, that either of the two great parties in this country has and design or aim at abolition. I should deeply lament if it were true. I should consider, if it were true, that the danger to the stability of our system would be infinitely greater than any which does, I hope, actually exist.—Whilst neither party can be, I think, justly accused of any abolition tendency or purpose, both have profited, and both have been injured, in particular localities, by the accession or abstraction of abolition support. If the account were fairly stated, I believe the party to which I am opposed have profited much more, and been injured much less, than that to which I belong. But I am far, for that reason, from being disposed to accuse our adversaries of being abolitionists.

And, now, Mr. President, allow me to consider the several cases in which the authority of Congress is invoked by these abolition petitioners upon the subject of domestic slavery. The first relates to it as it exists in the District of Columbia. The following is the provision of the Constitution of the United States in reference to that matter:

"To exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square) as may by cession or particular States, and the acceptance of Congress, become the Seat of Government of the United States."

This provision preceded, in the point of time, the actual cessions which were made by the States of Maryland and Virginia. The object of the cession was to establish a Seat of Government of the United States; and the grant in the Constitution of exclusive legislation must be understood, and should be always interpreted, as having relation to the object of the cession. It was with a full knowledge of this clause in the Constitution that those two States ceded to the General Government the ten miles square, constituting the District of Columbia. In making the cession, they supposed it would be applied, as applied solely, to the purposes of a Seat of Government; for which it was asked. When it was made, slavery existed in both those Commonwealths, and in the ceded territory, as it now continues to exist in all of them. Neither Maryland nor Virginia could have anticipated that, while the institution remained within their respective limits, its abolition would be attempted by Congress without their consent. Neither of them would probably have made an unconditional cession, if they could have anticipated such a result.

From the nature of the provision in the Constitution, and the avowed object of the acquisition of the territory, two duties arise on the part of Congress. The first is, to render the District available, comfortable and convenient, as a seat of Government of the whole Union; the other is, to govern the people within the District, so as best to promote their happiness and prosperity. These objects are totally distinct in their nature, and, in interpreting and exercising the grant of the power of exclusive legislation, that distinction should be constantly borne in mind. Is it necessary in order to render this place a comfortable seat for the General Government, to abolish slavery within its limits? No one can or will advance such a proposition. The Government has remained here nearly forty years without the slightest inconvenience from the presence of domestic slavery. Is it necessary to the well being of the people of the District that slavery should be abolished from among them? They not only neither asked nor desired, but are almost unanimously opposed to it. It exists here in the midst and most mitigated form. In a population of 39,834 there were at the last enumeration of the population of the United States, but 6,119 slaves. The number has probably not much increased since. They are dispersed over the ten miles square, engaged in the quiet pursuits of husbandry, or in manual offices in domestic life. If it were necessary to the efficiency of this place as a seat of General Government to abolish slavery, which is utterly denied, the abolition should be confined to the necessity which prompts it, that is, to the limits of the city of Washington itself. Beyond those limits, persons concerned in the Government of the United States have no more to do with the inhabitants of the District than they have with the inhabitants of the adjacent counties of Maryland and Virginia which lie beyond the District.

To abolish slavery within the District of Columbia while it remains in Virginia and Maryland, situated as that District is, within the very heart of those States, would expose them to great practical inconvenience and annoyance. The District would become a place of refuge and escape for fugitive slaves from the two States, and a place from which a spirit of discontent, insubordination and insurrection might be fostered and encouraged in the two States. Suppose, as was at one time under consideration, Pennsylvania had granted ten miles square within its limits for the purpose of a seat of the General Government; could Congress, without a violation of good faith, have introduced and established slavery within the bosom of the Commonwealth, in the ceded territory, after she had abolished it so long ago as the year 1780? Yet the inconvenience would have been much less than that to Virginia and Maryland in the case supposed would have been much less than that to Virginia and Maryland in the case we are arguing.

It was upon this view of the subject that

the Senate, at its last session, solemnly declared that it would be a violation of implied faith, resulting from the transaction of the cession to abolish slavery within the District of Columbia. And would it not be? By implied faith is meant that when a grant is made for one avowed and declared purpose, known to the parties, the grant should not be perverted to another purpose, unavowed and undeclared and injurious to the grantor. The grant, in the case we are considering, of the territory of Columbia, was for a seat of Government. Whatever power is necessary to accomplish that object is carried along by the grant. But the abolition of slavery is not necessary to the enjoyment of the site as a seat of General Government. The grant in the Constitution, of exclusive power of legislation over the District, was made to ensure the exercise of an exclusive authority of the General Government to render this place a safe and secure seat of Government, and to promote the well-being of the inhabitants of the District. The power granted ought to be interpreted and exercised solely to the end for which it was granted. The language of the grant was necessarily broad, comprehensive, and exclusive, because all the exigencies which might arise to render this a secure seat of the General Government could not have been foreseen and provided for. The language may possibly be sufficiently comprehensive to include a power of abolition, but it would not at all follow that the power could be rightfully exercised. The case may be resembled to that of a plenipotentiary invested with plenary power, but who, at the same time, has positive instructions from his Government as to the kind of treaty which he is to negotiate and conclude. If he violates these instructions, and concludes a different treaty, his Government is not bound by it. And if the foreign Government is aware of the violation, it acts in bad faith. Or it may be illustrated by an example drawn from private life. I am an indorser for my friend on a note discounted in bank. He applies to me to indorse another to renew it, which I do in blank.—Now, this gives him power to make any other use of my note which he pleases. But if, instead of applying it to the intended purpose, he goes to a broker and sells it, thereby doubling my responsibility to him, he commits a breach of trust, and a violation of the good faith implied in the whole transaction.

But, Mr. President, if this reasoning were as erroneous as I believe it to be correct and conclusive, is the affair of the liberation of six thousand negro slaves in this District, disconnected with the three millions of slaves in the United States, of sufficient magnitude to agitate, distract and embitter this great Confederacy?

The next case in which the petitioners ask the exercise of the power of Congress, relates to slavery in the Territory of Florida.

Florida is the extreme southern portion of the United States. It is bounded on all sides by slave States, and is several hundred miles from the nearest free State. It almost extends within the tropics, and the nearest important island to it on the water side is Cuba, a slave island. This simple statement of its geographical position should of itself decide the question. When, by the treaty of 1819 with Spain, it was ceded to the United States, slavery existed within it. By the terms of that treaty, the effects and property of the inhabitants are secured to them, and they are allowed to remove and take them away, if they think proper to do so, without limitation as to time. If it were expedient, therefore, to abolish slavery in it, it could not be done consistently with the treaty, without granting to the ancient inhabitants a reasonable time to remove their slaves. But further, by the compromise which took place on the passage of the act for the admission of Missouri into the Union, in the year 1820, it was agreed and understood that the line of 36 deg. 30 min. of north latitude should mark the boundary between the free States and the slave States to be created in the territories of the United States ceded by the treaty of Louisiana; those situated south of it being slave States and those north of it free States. But Florida is south of that line, and, consequently, according to the spirit of the understanding which prevailed at the period alluded to, should be a slave State. It may be true that the compromise does not in terms embrace Florida, and that it is not absolutely binding and obligatory; but all candid and impartial men must agree that it ought not to be disregarded without the most weighty considerations, and that nothing could be more to be deprecated than to open anew the bleeding wounds which were happily bound up and healed by that compromise. Florida is the only remaining territory to be admitted into the Union with the institution of domestic slavery, while Wisconsin and Iowa are now nearly ripe for admission without it.

The next instance in which the exercise of the power of Congress is solicited is that of prohibiting what is denominated by the petitioners the slave-trade between the States, or, as it is described in abolition petitions, the traffic in human beings between the States. This exercise of the power of Congress is claimed under the clause of the Constitution which invests it with authority to regulate commerce with foreign nations, and among the several States, and with the Indian tribes. The power to regulate commerce among the several States, like powers in the constitution, has hitherto remained dormant in respect to the interior trade by land between the States. It was a power granted, like all other powers of the General Government, to secure peace and harmony among the States.—Hitherto it has not been necessary to exercise it. All the cases in which, during the progress of time, it may become expedient to exert the general authority to regulate commerce between the States, cannot be conceived. We may easily imagine, however, contingencies, which, if they were to happen,

might require the interposition of the common authority. If, for example, the State of Ohio were, by law, to prohibit any vessel entering the port of Cincinnati, from the port of Louisville, in Kentucky, if that case be not already provided for by the laws which regulate our coasting-trade, it would be competent to the General Government to annul the prohibition emanating from State authority. Or if the State of Kentucky were to prohibit the introduction, within its limits, of any articles of trade, the production of the industry of the inhabitants of the State of Ohio, the General Government might, by its authority, supersede the State enactment. But I deny that the General Government has any authority, whatever, from the Constitution, to abolish what is called the slave-trade, or, in other words, to prohibit the removal of slaves from one slave State to another slave State.

The grant in the Constitution is a power of regulation, and not prohibition. It is conservative and not destructive. Regulation *ex vi termini* implies the continued existence or preservation of the thing regulated. Prohibition implies total discontinuance or annihilation. The regulation intended was designed to facilitate and accommodate, not to obstruct and incommode the commerce to be regulated. Can it be pretended that, under this power to regulate commerce among the States, Congress has the power to prohibit the transportation of live stock, which, in countless numbers, are daily passing from the Western and interior States to the Southern, South-western, and Atlantic States?—The moment the incontestable fact is admitted, that negro slaves are property, the law of movable property irresistibly attaches itself to them, and secures the right of carrying them from one State to another, where they are recognized as property, without any hindrance whatever from Congress.

But, Mr. President, I will not detain the Senate longer on the subject of slavery within the District and in Florida, and of the right of Congress to prohibit the removal of slaves from one State to another. These, as I have already intimated, with ultra-abolitionists are but so many masked batteries, concealing the real and ultimate point of attack. That point of attack is the institution of domestic slavery as it exists in the free States. It is to liberate three millions of slaves held in bondage within them. And now allow me, sir, to glance at the insurmountable obstacles which lie in the way of the accomplishment of this end, and at the consequences which would ensue if it were possible to attain it.

The first impediment is the utter and absolute want of all power on the part of the General Government to effect the purpose. The Constitution of the United States creates a limited Government, comprising comparatively few powers, and leaving the residuary mass of political power in the possession of the several States. It is well known that the subject of slavery interposed one of the greatest difficulties in the formation of the Constitution. It was happily compromised and adjusted in a spirit of harmony and patriotism. According to that compromise, no power whatever was granted to the General Government in respect to domestic slavery, but that which relates to taxation and representation, and the power to restore fugitive slaves to their lawful owners. All other power in regard to the institution of slavery was retained exclusively by the States, to be exercised by them severally, according to their respective views of their own peculiar interest. The Constitution of the United States never could have been formed upon the principle of investing the General Government with authority to abolish the institution at its pleasure. It never can be continued for a single day if the exercise of such a power be assumed or usurped.

But it may be contended by the ultra-abolitionists that their object is not to stimulate the action of the General Government, but to operate upon the States themselves, in which the institution of domestic slavery exists. If that be their object, why are they abolition societies and movements all confined to the free States? Why are the slave States wantonly and cruelly assailed? Why do the abolition press treat with publications tending to excite hatred and animosity on the part of the inhabitants of the free States against those of the slave States? Why is Congress petitioned? The free States have no more power or right to interfere with the institutions of the slave States, than they would have to interfere with the institutions existing in any foreign country. What would be thought of the formation of societies in Great Britain, to issue of numerous inflammatory publications, and the sending out of lectures throughout the kingdom, denouncing and aiming at the destruction of any of the institutions of France? Would they be regarded as proceedings warranted by good neighborhood? Or would they be thought of the formation of societies in the slave States, the issue of violent and inflammatory tracts, and the deputation of missionaries, pouring out impassioned denunciations against institutions under the exclusive control of the free States? Is their purpose to appeal to our understandings, and to secure our humanity? And do they expect to accomplish that purpose by holding us up to the scorn, and contempt, and detestation of the people of the free States and the whole civilized world?—The slavery which exists amongst us is our affair, not theirs; and we have no more just concern with it than they have with slavery as it exists throughout the world. Why not leave it to us, as the common Constitution of our country has left to be dealt with, under the guidance of Providence, as best we may or can?

The next obstacle in the way of abolition arises out of the fact of the presence in the slave States of three millions of slaves. They are there, dispersed, throughout the land, part and parcel of our population. Th